

**IN THE CIRCUIT AND SUPERIOR COURTS
DECATUR COUNTY, STATE OF INDIANA**

LOCAL COURT RULES

(Updated effective July 1, 2014)

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LR16-CB00-1 Filing of Pleadings

Court files shall NEVER leave the courthouse. Attorneys shall not take the file to his/her office for copying or review. Copies of documents contained in the court file are to be obtained by paying the Clerk \$1.00 per page.

A party filing a motion shall, at the time of filing, submit a proposed order with sufficient copies and pre-addressed, pre-stamped envelopes to serve all parties and/or counsel of record, along with a copy for the Record of Judgments and Orders.

(Amended effective May 1, 2012)

LR16-TR79-1 Selection of Special Judges in Civil Cases

When a special judge must be appointed pursuant to Trial Rule 79(H), the other Decatur County Judge shall be appointed as special judge, and, if the other Decatur County Judge accepts jurisdiction, the Clerk of the Court shall transfer the case to the other Decatur County Court. In the event that the other Decatur County Judge has previously recused or is not eligible to serve pursuant to the Code of Judicial Conduct, the judges of the following courts shall be eligible for appointment on a rotating basis: Jennings Circuit Court, Jennings Superior Court, Bartholomew Circuit Court, Bartholomew Superior Court No. 1, Bartholomew Superior Court No. 2, Rush Circuit Court, Rush Superior Court, Franklin Circuit Court No. 1, and Franklin Circuit Court No. 2. All of the above-named judges are within Administrative District 21 or are from a contiguous county and have agreed to serve as a special judge in the court where the case is pending.

When, under this rule, no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the presiding judge shall certify the case to the Indiana Supreme Court for the selection of a special judge.

(Amended effective February 11, 2013)

LR16-CR00-1 Late Payments

(A) In any action in which a defendant is found to have:

- (1) committed a crime;
- (2) violated a statute defining an infraction;
- (3) violated an ordinance of a municipal corporation; or
- (4) committed a delinquent act;

if the defendant has not been determined to be indigent and the defendant fails to pay court costs, a fine, or a civil penalty in full by the date set by the court, there shall be imposed a late payment fee of Twenty-Five Dollars (\$25.00) pursuant to IC 33-37-5-22, which shall be paid in addition to the costs, fine, or penalty.

(B) The court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment.

(Effective May 1, 2009)

LR16-CR00-2 Bail Schedule

Pursuant to I.C. 35-33-8-4, the following schedule is established for bail bonds for the indicated classifications of offenses. This schedule is effective July 1, 2014, and shall remain in effect until further order of the Courts.

All amounts are subject to review and modification by the Court in individual cases. The review and modification may come before or after the information or indictment is filed as the case may be.

Felonies:

Murder, Level 1, 2, 3, 4, and 5 felonies..... to be set by Court after hearing
Level 6 felonies..... \$750.00, cash only - Indiana residents
\$7,500.00, commercial only - out of state residents

Misdemeanors:

Class A \$500.00, cash only - Indiana residents
\$5,000.00, commercial only - out of state residents
Class B \$200.00, cash only - Indiana residents
\$2,000.00, commercial only - out of state residents
Class C \$100.00, cash only - Indiana residents
\$1,000.00, commercial only - out of state residents
Class A Misdemeanor and Felony Batteries
and Invasion of Privacy to be set by Court after hearing

If a Defendant is currently out on bail, including release on his/her own recognizance, for a pending criminal case, is currently on probation, or is currently placed in community corrections, bail is to be set by the Court after a hearing.

(Effective July 1, 2014)

1. When a court has personal jurisdiction of the defendant under a pending criminal cause or probation, any new criminal cause against that defendant shall be filed in that same court having such jurisdiction. The filing rule under this paragraph shall have priority over all other provisions of the filing rules.
2. If a court does not already have personal jurisdiction over the defendant, the Decatur Superior Court shall have exclusive jurisdiction over all charges filed under Titles 7.1, 9, and 14 of the Indiana Code.
3. In all other criminal actions presented for filing, the Decatur County Clerk shall, by random selection, assign one-third (1/3) of the felony cases and two-thirds (2/3) of the misdemeanor cases to the Decatur Superior Court and shall, by random selection, assign two-thirds (2/3) of the felony cases and one-third (1/3) of the misdemeanor cases to the Decatur Circuit Court.
4. Where multiple counts or defendants have been charged, the most serious offense shall dictate the classification to be assigned to the case for purposes of implementing the random selection process in paragraph 3. If there is any further conflict under these rules, the method of random selection used to determine court assignment, as provided in paragraph 3, will be utilized.
5. Where the investigation of an event results in criminal charges against more than one defendant, all criminal charges arising from the investigation shall be filed with the same court. If among the group of defendants, charges are pending in both courts against more than one in the group, the Clerk shall determine the appropriate court by random selection, as provided under paragraph 3.
6. When charges against a defendant have been filed and dismissed, any subsequent charges filed against the same defendant arising out of the same investigation shall be filed with the court to which the case was originally assigned.
7. Judges of the Decatur Circuit Court and the Decatur Superior Court may transfer any pending case to the other Decatur County Court or may appoint the other Decatur County Judge as special judge for any pending case that has been redocketed after the entry of the judgment of conviction, subject to acceptance by the other Decatur County Judge.

8. In the event that a change of judge is granted or a judge is disqualified or recuses, reassignment shall be made on a rotating basis to one of the judges of the following courts: Jennings Circuit Court, Jennings Superior Court, Bartholomew Circuit Court, Bartholomew Superior Court No. 1, Bartholomew Superior Court No. 2, Rush Circuit Court, Rush Superior Court, Franklin Circuit Court No. 1, and Franklin Circuit Court No. 2.

9. When, under these rules, no judge is available for appointment, or when, in the discretion of the regular presiding judge, the particular circumstance warrants selection of a special judge by the Indiana Supreme Court, the presiding judge shall certify these facts to the Indiana Supreme Court and request an appointment of a Special judge under the applicable procedural rules.

(Adopted May 22, 2008, effective January 1, 2009; amended June 1, 2011; amended June 1, 2012; amended effective February 11, 2013)

LR16-JR4-1 Jury Notice and Selection

The Decatur Circuit Court and Decatur Superior Court adopt Indiana Jury Rule 4B as the method for notice of selection for jury pool and summons for jury service.

LR16-FL00-1 Children First Program

Pursuant to I.C. 31-15-9-1, the Court finds that parties to a dissolution proceeding with minor unemancipated children can benefit from participation in a Dissolution Education Workshop. The purpose of the workshop is to encourage mediation and cooperation between the parties, develop an understanding of the emotional and psychological impact on children of divorce and to explain successful techniques for dealing with the potential problems experienced by children during the dissolution process.

Therefore, in all dissolution actions where there are minor unemancipated children, the parties are ordered to attend a program entitled “Children First” (or a program of comparable content conducted in another Indiana county). Attendance is mandatory in every such action filed on or after January 1, 1994. The two (2) hour program must be completed prior to the final hearing. The parties shall pay the program fee of Thirty-Five Dollars (\$35.00) per person, effective August 5, 2004, with an allowance for waiver of fees for indigency.

The program shall be presented by Debra Cruser, Decatur County Family Court Counselor. The parties are directed to contact her within ten (10) days of commencement of a cause of action or within ten (10) days of service of summons at 812-593-1777 to make an appointment to attend the program. Failure to attend and complete the program may result in a contempt citation and punishment or suspension of visitation. Session times shall be established by the Family Court Counselor.

Attorneys representing petitioners are ordered to give a copy of this Rule to their clients and the Decatur County Clerk shall furnish a copy to any pro se petitioners and attach a copy to the summons to be served on all respondents.

LR16-AR00-1 Civil Case Filings

Civil cases may be filed in either court in Decatur County with the following exceptions:

1. All juvenile cases (CHINS and delinquency) are filed in Circuit Court.
2. All small claims (SC), protective order (PO), mortgage foreclosure (MF), and civil collections (CC) cases are filed in Superior Court.

(Amended effective June 1, 2012)

Preamble

In all cases, the Court shall proceed pursuant to these Rules unless the Court directs a longer retention period after motion by any party or on its own motion.

(A) Retention Periods for Civil Cases, Including Adoption, Paternity, and Juvenile Proceedings. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

(B) Retention Periods for Evidence Introduced in Criminal Misdemeanor, Class D and Class C Felonies and Attempts. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the Court, three (3) years after the case is dismissed, the defendant is found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

(C) Retention Periods for Evidence Introduced in Criminal Class B and A Felonies and Murder and Attempts. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, twenty (20) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for twenty (20) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

(D) Non-documentary and Oversized Exhibits. Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the trial court or Administrative Agency during the appeal. Such exhibits shall be briefly identified in the Transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits.

Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

(E) Disposition. In all cases, within thirty (30) days following the expiration of the applicable retention period, the parties shall take away all evidence that is in the custody of the court reporter. At the time of removal, a detailed receipt shall be given to the court reporter by the party receiving and removing the evidence, and the receipt will be made part of the court file.

In all cases, the Court, or the sheriff on the Court's order, should dispose of evidence that is not retaken by the parties. The sheriff should be ordered to destroy evidence if its possession is illegal or if it has negligible value. Evidence of some value should be auctioned by the sheriff with proceeds going to the county general fund. These Rules and their retention periods will take precedence over inconsistent language in statutes. Indiana Code § 35-33-5-5(c)(2).

(F) Biologically Contaminated Evidence. A party who offers biologically contaminated evidence must file a pretrial notice with the trial court and serve all the parties so that the court can consider the issue and rule appropriately before trial. A party can show contaminated evidence or pass photographs of it to jurors, but no such evidence, however, contained, shall be handled or passed to jurors or sent to the Jury Room.

(Adopted October 28, 2010, effective January 1, 2011)

LR16-AR15-1 Court Reporter Services

Section One. Definitions The following definitions shall apply under this local rule:

- (1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week and during which court reporters are performing official duties. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (8) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (9) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Decatur County.
- (10) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (11) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (12) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party and the preparation of which is done outside of regular working hours.

Section Two. Salaries, Gap time and Overtime pay

- (1) Court reporters shall be paid an annual salary for time spent working under the control, direction, and direct supervision of their supervising court during any regular fixed work hours. Subject to the approval of the county council, the amount of the annual salary shall be set by the Court.
- (2) The court reporter shall, if requested or ordered, prepare any indigent transcript during regular work hours.
- (3) In the event that preparing a transcript cannot be completed during regular work hours, the court reporter shall be entitled to additional compensation beyond regular salary under one of the two options set forth as follows:
 - (a) Overtime hours shall be paid in the amount of one and one-half (1½) times the number of overtime hours worked.
 - (b) Compensatory time off from regular work hours shall be given in the amount of one and one-half (1½) times the number of overtime hours worked.
- (4) The court and the court reporter shall freely negotiate between the two which of the options set forth in (3) above shall be applicable and the court and the court reporter shall enter into a written agreement which outlines the option utilized for the compensation of overtime hours.
- (5) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private practice

- (1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - (a) The reasonable market rate for the use of equipment, work space, and supplies;
 - (b) The method by which records are to be kept for the use of equipment, work space, and supplies; and
 - (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space, and supplies.
- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

Section Four. Fees

- (1) The maximum per page fee a court reporter may charge for private practice work shall be \$3.50.
- (2) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.25 and the maximum hourly fee a court reporter may charge for the binding of transcript and exhibits shall be \$15.00 per hour.